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1 IN THE UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO - EASTERN DIVISION  
3 GREGORY W. BARAN, M.D.,  
4 Plaintiff,  
5 -vs- JUDGE O'MALLEY  
6 MEDICAL DEVICE CASE NO. 1:04CV1251  
7 TECHNOLOGIES, INC., CONFIDENTIAL  
Defendant.

MAJID RASHIDI, Ph.D., P.E., taken as if upon cross-examination before Dawn M. Fade, a Registered Merit Reporter and Notary Public within and for the State of Ohio, at the offices of Benesch, Friedlander, Coplan & Aronoff, LLP, 2300 BP Tower, 200 Public Square, Cleveland, Ohio, at 9:11 a.m. on Wednesday, November 19, 2008, pursuant to notice and/or stipulations of counsel, on behalf of the Defendant in this cause.

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1       seeing any product information that you received  
2            that's in a written form?

3       A. Probably in all this stack of material probably  
4            there is something on that. But as I said, when  
5            I looked at this I'm assuming that this must be a  
6            single use item.

7       Q. Okay. Do you know, when you say single use, do  
8            you know whether the device that's BioPince  
9            Exhibit 8 could be used in multiple tissue, for  
10           multiple tissue samples in the same patient?

11      A. It could be, it could be on the same patient, but  
12           you cannot transfer from patient to patient.

13      Q. Okay.

14      A. That's what I mean by single procedure use. So  
15           you can use it ten times on the same patient,  
16           different parts of the tumor or whatever, but  
17           after that you have to dispose of it.

18      Q. Did you speak with anybody about whether the  
19           BioPince could be used multiple times on the same  
20           patient?

21      A. I can assume, again, because of my prior  
22           experience with catheters, you can insert the  
23           catheter to one chamber of the heart and get your  
24           data, take it out, go to another vascular line  
25           into another chamber of the heart, so, therefore,

1 A. Okay.

2 Q. But would you agree with me that the crank arm,  
3 what you refer to as a crank arm is the device  
4 that's used by the physician to charge the  
5 device?

6 A. I disagree with you.

7 MS. THOMPSON: Then I object to  
8 the form of the question.

9 A. I disagree with you. Crank arm 28 is one member  
10 of a mechanism which I'm calling it a slider  
11 crank which collectively together, these three  
12 members, charge the spring. If you don't have  
13 the connecting rod 30, if you don't have the  
14 slider 35, no matter how many times you move this  
15 up and down there is no elastic energy charging  
16 the spring. These three pieces work like a  
17 family, they work together to achieve the final  
18 objective of compressing the spring in the most  
19 comfortable way for the physician.

20 Q. Could you charge the BioPince device without the  
21 crank arm?

22 MS. THOMPSON: Objection to form.

23 A. As I said, this, this BioPince system has a  
24 charging mechanism.

25 Q. Uh-huh.

1 A. As it is intended for, no, the answer is no.

2 Q. Okay. Your testimony is that you need the crank  
3 arm, the connecting rod and the slider link to  
4 charge the device?

5 A. That is a very true statement.

6 Q. Okay. Would you agree with me that the crank arm  
7 is manually operable?

8 A. It is manually operable.

9 Q. Okay. You say that it's a member of a mechanism,  
10 right?

11 A. Correct.

12 Q. And you say the mechanism, mechanism has to have  
13 at least three members in your report, is that  
14 right?

15 A. That's correct.

16 Q. One of which is fixed and defined as the ground,  
17 right?

18 A. Correct.

19 Q. So the crank arm is a member of the crank arm  
20 mechanism?

21 A. That's correct.

22 Q. And would you agree with me that it is a member,  
23 the crank arm itself is a member of that  
24 mechanism?

25 A. Absolutely.

1 A. Okay. I'm not sure that it is not already  
2 charged. So you raise the handle to go up, you  
3 hear this click which means that that slider  
4 piece goes and grabs on this little protrusion.

5 Q. Uh-huh.

6 A. And then you press it so the slider crank is in  
7 action, you lock it in place, that locking fixer  
8 is holding it together so you charged it.

9 Q. So it's charged right now, is there any indicator  
10 on the device that tells you it's charged?

11 A. No.

12 Q. Okay. How would one know whether it's charged or  
13 not?

14 A. As I said, I didn't study that aspect of this so  
15 I don't know.

16 Q. Okay. You have to rely on somebody else to tell  
17 you when it's charged?

18 A. Actually physicians are going to use this and  
19 this is in their hands so they should know how to  
20 use this.

21 Q. And can you tell at all by virtue of the  
22 orientation of what you refer to as the crank  
23 arm?

24 A. Orientation of the crank arm to conclude what?

25 Q. Whether it's charged or not.

1           on the handle when it's charged?

2     A.    Much more difficult than when it is not.  And you  
3           can do that yourself.

4     Q.    Right.  Well, does it depend on your, I notice  
5           that you're positioning your hand on the very end  
6           of the crank arm.

7     A.    Yeah.

8     Q.    Does it get easier if you move it along?

9     A.    No.

10    Q.    How about the middle?

11    A.    Here?

12    Q.    Yeah.  Isn't that a lot easier?

13    A.    In both cases it is much more than when it is --  
14          let me see if this is -- okay.

15           Whether I grab here or here it is much easier  
16          when there is no potential energy.

17    Q.    Uh-huh.

18    A.    Whether I grab in the middle or here and the two  
19          are totally different.  So there is nothing in  
20          here that encourages me to discharge it.  And as  
21          a matter of fact, if I discharge it in this  
22          fashion, then there are two possibilities,  
23          whether I'm being very careful to make sure  
24          there's no violent action there and if I do that  
25          I should constantly keep working against the

1           spring so that the needle goes very slowly, it  
2           doesn't do any biopsy.

3       Q. Uh-huh.

4       A. But if I want to really push it in then it  
5           becomes a violent action and there is no way I  
6           can control that.

7       Q. Right. Well, you're speaking about your own  
8           handling of the device, right?

9       A. What do you mean by that?

10      Q. Well, you were talking about the difficulty that  
11           you were having personally discharging the device  
12           by lifting the handle, right?

13      A. Actually we can quantitatively measure that,  
14           verify that. I haven't done it, but I can do it  
15           and I reserve the right to do that. I'm sure  
16           that it is difficult, much more difficult to  
17           discharge this in this fashion than just pressing  
18           the button as intended.

19      Q. Uh-huh.

20      A. And as I said, any latch you can undo by brute  
21           force.

22      Q. Now, how do you -- you say -- well, I want to be  
23           clear about this. You've not talked to any  
24           clinicians, right, about the BioPince device?

25      A. No.

1 trigger.

2 A. Uh-huh.

3 Q. Okay. And that has the effect of obtaining a  
4 sample, right?

5 A. Okay.

6 Q. And 8 says, "Remove the device from the patient.  
7 Lifting the cocking lever and pushing it down  
8 will automatically expel the specimen."

9 A. Okay.

10 Q. "The instrument is now ready for another specimen  
11 retrieval."

12 A. Okay.

13 Q. Okay. Well, my question is does, do these  
14 instructions in your view address the situation  
15 where a physician does not want to take another  
16 specimen?

17 A. Okay. So --

18 Q. And yet doesn't want a loaded device sitting on a  
19 table.

20 A. Okay. Okay. So we go with this hypothetical  
21 situation?

22 Q. Yeah.

23 A. Then what?

24 Q. Well, my question is do those instructions deal  
25 with that situation?

1                           MS. THOMPSON: Object to the form  
2                           of the question and the incomplete  
3                           hypothetical.

4     A. Yeah. I mean, as I said, based on your own  
5                           statement, that a charged device could be more  
6                           dangerous than uncharged and if he's not going to  
7                           take another sample what is going to happen to  
8                           the needle, it has to go to the biohazard  
9                           material so you discharge it and throw it in  
10                          there. I mean, this is common sense, isn't it?

11                         If I'm not taking any other sample, I cannot  
12                         use it again on another patient so it has to go  
13                         into the garbage can, so discharge it and throw  
14                         it in the garbage can however is the safest which  
15                         is pushing the red button.

16     Q. But it doesn't say anywhere that the physician  
17                         shouldn't lift up on the handle to discharge the  
18                         device, does it?

19                         MS. THOMPSON: Objection.

20                         Argumentative.

21     A. It doesn't say many other things either.

22     Q. Well, it doesn't say it, does it?

23     A. It doesn't say many other things either. It  
24                         doesn't say that the physician should not drive  
25                         fast home.